

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB477

Hearing Date: Thursday February 05, 2009
Committee On: Natural Resources
Introducer: Carlson
One Liner: Change provisions relating to water transfer permits

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Carlson, Cook, Dubas, Fischer, Haar, Langemeier, McCoy, Schilz

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Tom Carlson
Robert Hallstrom
Bob Dahlgren
John Thorburn

Tom Knutson
Duane Gangwish

Opponents:

Brian Dunnigan

Neutral:

Brian Barels
Jasper Fanning

Representing:

Introducer
Nebraska Bankers Association
Self
Tri-Basin Natural Resources District, Nebraska
Association of Resources Districts
Nebraska State Irrigation Association
Nebraska Cattlemen

Representing:

Department of Natural Resources

Representing:

Nebraska Public Power District
Upper Republican Natural Resources District

Summary of purpose and/or changes:

LB 477 requires lienholder information to be recorded before a natural resources district approves of an appropriation transfer or allows a water user or landowner to participate in an incentive program.

Section 1 amends Section 46-290, relating to intrabasin transfers, by adding new language requiring that a title report listing all liens on the land connected with the appropriation and all lienholder information be provided on the transfer application to the Department of Natural Resources.

Section 2 amends Section 46-291, relating to transfer applications, by requiring that a notice of application denial be provided to lienholders identified in the title report.

Section 3 amends Section 46-701, which cites the Nebraska Ground Water Management and Protection Act, by adding reference to the new language in Section 7 of the bill.

Section 4 amends Section 46-706, which defines the terms in the Nebraska Ground Water Management and Protection Act, by adding definitions of certified irrigated acres (acres reported to a district capable of being supplied water through irrigation) and certified water uses (beneficial water use other than irrigation).

Section 5 amends Section 46-707, relating to natural resources district powers, by authorizing a district to require those with control over uses of water to certify water uses and irrigated acres.

Section 6 amends Section 46-739, relating to controls to be adopted for a management area, by allowing a district to require its own approval of transfers of certified water uses or certified irrigated acres between landowners or between tracts under the control of a common landowner or other person. Further requires such approval and any incentive program to be in compliance with the new language in Section 7 of the bill.

Section 7 contains new language requiring a title report issued by an attorney or licensed abstractor, to be provided to the district before approval can be given for transfers of certified water uses or irrigated acres AND before a water user or landowner is allowed to participate in an incentive program established under subsection 8 of 46-739. Further requires that land description and lien information be provided to the district.

If a title report shows evidence of any liens, written consent is to be obtained from each lienholder before a transfer or participation in an incentive program can be allowed. A district may charge a fee for review of the title report.

An approved transfer or incentive program participation by a district is not to affect any right of any lienholder that has not been identified as required. Further allows such a lienholder to bring an action against the person seeking the transfer or incentive program participation for damages or injunctive relief.

Section 8 contains new language that requires the district to record a transfer with the register of deeds in the county of the area from which the transfer occurred. The record is to include information on the land affected by the transfer, date of transfer, and a statement that all lienholders have given written consent to the transfer. The instrument recorded is to be treated in the same manner as other conveyances of real estate.

Section 9 repeals the original sections.

Explanation of amendments:

The committee amendment clarifies that the provisions of both Section 7 and Section 8 become part of the Nebraska Groundwater Management and Protection Act; revises the definition of "certified irrigated land"; clarifies that the application of the lienholder identification and consent requirements apply only to ground water transfers; and provides revised language to the provisions for recording an instrument of transfer of the right to use ground water

Chris Langemeier, Chairperson